

**FINAL APPROVED**

**ADVISORY BOARD ON BEHAVIOR ANALYSIS**

Minutes

May 23, 2022

The Advisory Board on Behavior Analysis met on Monday, May 23, 2022, at 10:00 a.m. at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia.

**MEMBERS PRESENT:** Christina Giuliano, LBA, Chair  
Mark Llobell, Citizen Member  
Jerita Dubash, D.O. - [Joined at 10:20 am]  
Autumn Kaufman, LBA

**MEMBERS ABSENT:** None

**STAFF PRESENT:** William L. Harp, M.D., Executive Director  
Michael Sobowale, LLM, Deputy Director for Licensing  
Colanthia M. Opher, Deputy Director for Administration  
Erin Barrett, JD, DHP Senior Policy Analyst  
Pam Smith, Licensing Specialist

**GUESTS PRESENT:** Christy Evanko, VABA  
Amanda Randall  
Kate Lewis  
Ting Bentley  
Shantel Pugliese  
Eli Newcomb, LBA  
Brian (no last name provided)  
Jennifer (no last name provided)

**CALL TO ORDER**

Christina Giuliano called the meeting to order at 10:02 a.m.

**EMERGENCY EGRESS PROCEDURES**

Dr. Harp announced the emergency egress procedures.

**ROLL CALL**

Pam Smith called the roll. A quorum was established.

## **APPROVAL OF MINUTES OF JANUARY 31, 2022**

Mark Llobel moved to approve the minutes from the January 31, 2022 meeting. Autumn Kaufman seconded, and the motion carried.

## **ADOPTION OF AGENDA**

Mark Llobell moved to adopt the agenda. Autumn Kaufman seconded. The agenda was adopted as presented.

## **PUBLIC COMMENT**

Christina Giuliano announced that the public comment period has closed on the petition for rulemaking that requests an amendment to Board of Medicine regulation 18VAC85-150-60 on the licensure requirements for behavior analysts and assistant behavior analysts. No public comment would be taken on this agenda item during the meeting.

Christy Evanko provided public comment on the time it takes to process applications for behavior analysis.

## **NEW BUSINESS**

### **1. Legislative Update from the 2022 General Assembly**

Erin Barret indicated that currently there were no regulatory actions affecting the profession. She gave an update on 2 bills at the General Assembly. HB1245 repeals the sunset provision in a bill passed in 2020 that reduced the years from 5 to 2 of full-time clinical experience that a nurse practitioner must have to be eligible to practice without a practice agreement. HB191 would have created the position of Special Advisor to the Governor for Health Workforce Development and also create a Virginia Health Workforce Development Fund to address various health workforce issues in Virginia. Neither bill passed in the Regular Session and were sent to the Special Session for further consideration.

### **2. Petition for Rulemaking**

#### Closed Session

Christina Giuliano announced that, pursuant to Section 2.2-3711 (A) (7) of the Code of Virginia, it is appropriate that the Advisory Board convene a closed session to obtain legal consultation and briefings by Board staff members because actual or probable litigation had been threatened. Christina Giuliano moved to convene a closed meeting. Additionally, she moved that the Board/DHP staff present attend the closed meeting because their presence in the closed meeting was deemed necessary and would aid the Advisory Board in its deliberations. The motion was duly seconded by Autumn Kaufman. The motion carried.

### Reconvene

Mark Llobell moved to certify that the matters discussed in the preceding closed session met the requirements of Virginia Code Section §2.2-3712. Autumn Kaufman seconded the motion, and the motion carried. The Advisory Board re-convened in open session to continue its discussion on the petition for rulemaking.

### Discussion

An Advisory Board member stated that the Qualified Applied Behavior Analysis credential (QABA) does not meet the requirements for comprehensive practice in the field of behavior analysis. QABA's restriction chiefly to autism does not meet the definition of an appropriate accrediting body's requirements for practice in the field of behavior analysis. Another questioned how disciplinary actions taken by the QABA credentialing board are reported and to which entities they are reported. It was stated that the Advisory Board does not want to run the risk of having an applicant disciplined by another accrediting body unrecognized by the Board of Medicine and have the applicant subsequently apply for a license without the Board's knowledge of the disciplinary action. This would be contrary to the Board's mission to ensure safe and competent patient care by licensed healthcare professionals by enforcing standards of practice. It was noted that comments during the public comment period from recognized experts reinforced the standards in the Board's regulations for accreditation of behavior analysis. It was also stated that QABA's certification criteria do not meet the licensure requirements in the Board's regulations to protect the public in Virginia. By allowing applicants to be credentialed for practice in behavior analysis apart from what is already written in regulations by the Board, the Board is opening the door to lesser quality of care for patients in Virginia.

Erin Barrett stated that the regulations are currently in conflict with the law. Based on the petition, members may choose to initiate a Notice of Intended regulatory Action (NOIRA) to include a definition of acceptable nationally accredited entities for behavior analysts in the definition section. Forming a Regulatory Advisory Panel to discuss the definition of what is considered "nationally accredited" was discussed.

Mark Llobell moved that the Advisory Board recommend to the full Board to initiate rulemaking in response to the petition to conform the regulation with the language in 54.1-2957.16 and to define the term, "nationally accredited to certify practitioners of behavior analysis." The Advisory Board also recommended a Regulatory Advisory Panel be appointed to assist with the definition. The motion was seconded by Dr. Dubash, and the motion carried.

### **3. Adoption of Bylaws**

Erin Barrett stated that since all the Advisory Boards will be recommending adoption of Bylaws to the full Board, it would be more efficient, process-wise, for all the Bylaws for each Advisory Board to be covered in a uniform Guidance Document. Mark Llobell moved that the Bylaws for the Advisory Board to be placed into a single Guidance Document as suggested. Autumn Kaufman seconded, and the motion carried.

## **ANNOUNCEMENTS**

**---DRAFT ---**

Michael Sobowale provided the licensing statistical report. For licensed behavior analysts, there is a total of 2,067 with 1,443 current active in Virginia and 1 current inactive. 615 are current active out-of-state, and 3 are current inactive out-of-state. There are currently a total of 223 licensed assistant behavior analysts. 193 are current active in Virginia; 2 are current inactive, and 28 are current active out-of-state.

**NEXT MEETING DATE**

September 19, 2022 @ 10:00 a.m.

**ADJOURNMENT**

There being no other business, Christina Giuliano adjourned the meeting 11:27 a.m.

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Christina Giuliano, LBA, Chair

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William L. Harp, MD, Executive Director

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Michael Sobowale, Recorder